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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BANK OF AMERICA, N.A., SUCCESSOR
BY MERGER TO BAC HOME LOANS
SERVICING, LP FKA COUNTRYWIDE
HOME SERVICING, LP,

Plaintiff,

v.

MESA VERDE HOMEOWNERS
ASSOCIATION; SFR INVESTMENTS
POOL 1, LLC; ALESSI & KOENIG, LLC,

Defendants.

SFR INVESTMENTS POOL 1, LLC, a
Nevada limited liability company,

Counter/Cross-Claimant,

vs.

BANK OF AMERICA, N.A., SUCCESSOR
BY MERGER TO BAC HOME LOANS
SERVICING, LP FKA COUNTRYWIDE
HOME SERVICING, LP; GEORGE A.
BENNETT, an individual; and JUANITA C.
BENNETT, an individual,

Counter/Cross-Defendant.

CASE NO.: 2:16-cv-00498-JCM-NJK

**AMENDED STIPULATION AND ORDER
TO EXTEND DISPOSITIVE MOTION
DEADLINE**

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1 Plaintiff, BANK OF AMERICA, N.A. ("BANA") and Defendants, MESA VERDE
2 HOMEOWNERS ASSOCIATION ("HOA"), SFR INVESTMENTS POOL 1 ("SFR"), and
3 ALESSI & KOENIG, LLC ("A&K"), by and through their attorneys of record, hereby
4 stipulate and agree to the following:

- 5 1. On October 26, 2016, the Court issued an Order setting the deadline for
6 dispositive motions on December 29, 2016. ECF No. 55.
- 7 2. Also on October 26, 2016, the Court issued an Order Granting Bank of
8 America, N.A.'s Emergency Motion for Protection from Its 30(b)(6)
9 Deposition and Motion for Sanctions. ECF No. 56.
- 10 3. On October 27, 2016, SFR immediately filed Motion for Relief from Order
11 [ECF 56] Pursuant to FRCP 60(b)(1) and for Leave to File Opposition to
12 Plaintiff Bank of America, N.A.'s Motion for Protective Order and for
13 Sanctions [ECF 50]. ECF Nos. 57 and 58. On November 28, 2016, SFR
14 filed its Reply in Support of Motion for Relief from Order. ECF No. 65
15 SFR's Motion for Relief from Order is currently pending resolution by the
16 Court.
- 17 4. On November 2, 2016, BANA filed Motion for the Calculation of Sanctions
18 Pursuant to Court's October 26, 2016 Order [ECF No. 56], to which SFR
19 filed its Response on November 21, 2016, and BANA filed its Reply on
20 December 1, 2016. ECF No. 59. This motion is fully briefed and pending
21 before the Court. ECF Nos. 64 and 66.
- 22 5. Upon information and belief, on December 13, 2016, Alessi & Koenig filed
23 a voluntary petition under Chapter 7 of the Title 11 of the United States
24 Code, 11 U.S.C. §§ 101-1532. The case is filed under 2:16-bk-16593-abl
25 with Shelley D. Krohn as the bankruptcy estate trustee.
- 26 6. This stipulation is submitted based upon good cause and is not made for
27 the purpose of delay.

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7. Given the forgoing, the parties agree to extend the deadline for filing dispositive motion in this case until 60 days after the Court has resolved the pending Motions, ECF Nos. 57, 58, and 59, and to allow the parties time to analyze the effects of Alessi & Koenig's bankruptcy petition on this litigation.
8. This request comes before the Court with less than 21 days before the dispositive motions deadline. This Court also requires a showing of excusable neglect when a stipulation to extend comes before it with less than 21 days before the deadline. LR 26-4. "[T]he determination of whether neglect is excusable is an equitable one that depends on at least four factors: (1) the danger of prejudice to the opposing parties; (2) the length of the delay and its potential impact on the proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith." *Bateman v. U.S. Postal Service*, 231 F.3d 1220 (9th Cir. 2000).
9. There is no prejudice to any party to extend the deadline to allow for the resolution of the pending motions and determination of whether Bank of America's deposition will take place in this matter.
10. The length of the delay and its impact on the proceedings is minimal as all other discovery is complete in this matter and the parties only wait the resolution of the motions to be able to file dispositive motions with all pertinent discovery to support said motions.
11. The reason for the delay is that there are multiple parties who needed to sign off on this agreement, and negotiate its terms. The parties were also initially unsure how to address the request given the Alessi bankruptcy. Ultimately, the parties contacted the trustee for Alessi's bankruptcy and obtained her consent. Given these issues, and practical issues concerning counsel's out of office schedules over the holidays, the parties were unable to file this sooner.

12. The parties have acted in good faith and the purpose of this stipulation is not for delay.

Dated this 28th day of December, 2016

Dated this 28th day of December, 2016

AKERMAN, LLP

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/s/ Darren Brenner

/s/ Diana Cline Ebron

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Dated this 28th day of December, 2016

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As representative for Trustee
Shelley D Krohn, Chapter 7 Trustee for
Alessi & Koenig, LLC, bankruptcy estate

ORDER

IT IS SO ORDERED.

Dated December 29, _____, 2016



United States Magistrate Judge

Lipson, Neilson, Cole, Seltzer & Garin, P.C.

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